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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Human Rights Advocates Inc., a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Methods for addressing ongoing torture

Survivors of torture throughout the world are regularly not afforded adequate remedies by state actors. By ensuring proper documentation of torture, holding perpetrators of violence accountable, and providing victims with access to legal remedies, state actors can provide survivors of torture with access to justice. This statement addresses the ongoing issue of torture by observing practices in four countries: the United States of America (U.S.), Syria, Iran, and Russia.

The Need for Documentation

In respect to the four countries mentioned above, there is a need for an impartial observance and documentation of state sponsored torture. All states must recognize the universal prohibition of torture and ill treatment under the Universal Declaration of Human Rights. This extends to "all places that the State party controls as a government authority."[1] By this definition, victims must be afforded redress against the torture experienced in Guantanamo Bay Prison, Bagram Prison, Abu Ghraib, or prisons that prevent any form of communication with the outside world, also known as black site prisons.

In the U.S., the operation of Guantánamo Bay and black site prisons hinders the implementation of policies of transparency due to the inability for prisoners to receive a fair trial and engage in any form of communication outside the prison. The recent release of the Senate's Intelligence Committee Report on CIA torture informed the global community of the emotionally and physically traumatic "enhanced interrogation" techniques performed by Americans on alleged enemy combatants.[2] The report was released twelve years after Guantánamo Bay Prison began operating in its current capacity.

U.S. personnel committed violations of both customary international law and treaties throughout the twelve years of the prison's operation. As a party to the Convention Against Torture, the U.S. violated its obligations by utilizing torture methods that included sensory deprivation, waterboarding, and sexual abuse.[3] Actors in the George W. Bush Administration played a vital role in the operation of the prison and have yet to be held accountable for their violations of international law.

In Syria, torture is a regular practice employed by the Assad government.[4] Hafiz el Assad and Bashar el Assad's current government have and continue to torture their citizens, whether or not the victim has been afforded due process. Opponents of the Assad government are illegally imprisoned without access to legal representation.[5] Occurrences such as these have substantially increased since the Syrian uprising that began in March of 2011. Testimonies of torture survivors provide evidence that amount to crimes against humanity, including systematic gender-based torture, whippings, beatings with cable sticks, and rape against the Syrian civilian population. Reports indicate that the Assad government successfully silences victims of torture through fear tactics and physical threats.[6]

In Iran, former President Mahmoud Ahmadinejad's personnel subjected prisoners to torture and inhumane treatment

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[1] "Convention Against Torture and Other Cruel, Inhuman, or Degrading Punishment or Treatment," Report of the Committee Against Torture Fifty Third Session. Available from CAT/C/USA/CO/3-5. November 3-28, 2014, Pg. 3.

[2] *Id at 2.*

[3] Gagnon, Julie Dubé, "The Case of Detainees Tortured in the Name of National Security and the 'War on Terror:' Are They Entitled to Reparations?" *Notre Dame Journal of International & Comparative Law:* Vol. 1: Iss. 1, Article 5, Page 164.

[4] "Syrian Dictator Bashar Assad Guilty of Crimes Against Humanity Says U.N. Chief…" *Daily Mail Reporter*, September 13, 2013. http://www.dailymail.co.uk/news/article-2420510/Syrian-dictator-Bashar-Assad-IS-guilty-crimes-humanity-says-UN-chief-Ban-Ki-Moon.html#ixzz3RDVlxOW0.

[5] "I Wanted to Die, Syria's Torture Survivors Speak Out." *Amnesty International*, March 2012, Pg. 36 https://www.amnestyusa.org/sites/default/files/mde240162012en.pdf.

[6] Ghattas, Kim, "Syrian Torture: Will Photos Turn U.S. Opinion?" *BBC News*, January 27, 2015, http://www.bbc.com/news/magazine-30689627.

without accountability for his actions as head of state. Victims of torture reported that Iranian authorities inflicted sexual abuse, mock executions, public lashings, and amputations, all of which are considered violations of international law.[7]

In Russia, it is reported that victims testified accounts of torture authorized under President Vladamir Putin.[8] Torture methods include beatings, being hit with rifle butts, and threats of sexual violence, suffocation, and electric shock.[9]

To adhere to their international obligation to prevent torture, government agencies must take steps to increase transparency and provide proper documentation on the condition of its prisons. The promotion of transparency is necessary to hold states accountable and provide remedies to survivors of torture.

The Need for Accountability

International law requires that alleged perpetrators of torture be prosecuted. This includes persons in positions of command in addition to those who provided "legal cover of torture" as described by the Committee Against Torture in its Fifty-Third session in November of 2014.[10]

The U.S. government has failed to investigate allegations of torture and violations of international law authorized by the Bush administration in U.S. controlled prisons.[11]

In Syria, political motivations hamper accountability, as Russia and China have blocked U.N. Security Council resolutions addressing the violent situation in Syria.[12] Regardless, this should not deter the international community in any capacity to hold the perpetrators of torture accountable in each respective nation.

States have a duty to increase their efforts to end any violations of international law committed by military personnel who have disobeyed commands and committed human rights abuses. Governments should implement a prompt and impartial investigation of sexual violence and other torture methods committed by military or prison personnel. Witnesses and survivors must be interviewed and shielded from any form of intimidation or retaliation.

Torture committed during times of public emergencies or in the name of national security interest does not overrule the universal prohibition against torture. A state's justification of torture for purposes of national security cannot counteract the obligations provided by the International Covenant on Civil and Political Rights or CAT.[13]

Holding states accountable for crimes of torture will undoubtedly assist victims in accessing remedies.

Providing Remedies for Survivors of Torture

States must take appropriate measures to identify and reduce the duration of pretrial detention, especially those held

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[7] "Torture in Iran Since the 2009 Election" *Freedom From Torture Country Reporting Programme*, March 2013. file:///Users/iran_report_A4___FINAL_web_615545737.pdf.

[8] Shuster, Simon, "Putin's Secret Agents," *Times*, http://time.com/putin-secret-agents/.

[9] "Torture in Russia: 'Torture is a Traditional Component of Proof,'" *Amnesty International*, June 27, 2013, http://www.amnesty.org/en/news/torture-russia-torture-traditional-component-proof-2013-06-27.

[10] Supra at 5.

[11] "United States: Investigate Bush, Other Top Officials for Torture" *Human Rights Watch*, July 11, 2011, http://www.hrw.org/news/2011/07/11/united-states-investigate-bush-other-top-officials-torture.

[12] "Referral of Syria to International Criminal Court Fails as Negative Votes Prevent Security Council from Adopting Draft Resolution," Security Council 7180th Document Meeting, May 22, 2014, http://www.un.org/press/en/2014/sc11407.doc.htm.

[13] "Bringing the International Prohibition of Torture Home," *Redress*, January 2006 http://www.redress.org/downloads/publications/CAT%20Implementation%20paper%2013%20Feb%202006%203.pdf.

without valid legal charge.[14]

Survivors of torture must be afforded adequate rehabilitation and compensation for any psychological or physical trauma experienced.[15]

Survivors of torture should be able to share their stories without the fear of retaliation or punishment. Outlets such as Witness To Guantanamo, a project dedicated to documenting the stories of players and former detainees, should be made accessible to torture survivors.[16]

There is a need for an impartial investigation of all potential occurrences of torture in order to gather evidence for future prosecutions of heads of state. By implementing fact-finding missions in each respective nation, a prompt investigation of systematic, widespread, and grave violations of human rights can be accomplished. State sponsored bodies are necessary to facilitate the investigation during this crucial process.[17]

Recommendations

Human Rights Advocates urges:

1. The Human Rights Council:
   a. To request that the Special Prosecutor and Security Council authorize the prosecution of former persons responsible for authorizing torture at the International Criminal Court;
   b. Continue the Commission of Inquiry on Syria and consider using Commissions of Inquiry with respect to other countries with a history of ongoing torture.[18]
2. State Parties:
   a. With a record of ongoing torture to permit the U.N. Special Rapporteur on torture to visit respective prison facilities. The Special Rapporteur should be given full access to the detainees in order to ensure proper documentation of torture.[19]
   b. To prosecute crimes against humanity in their national courts.

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[14] Supra at 6.

[15] Gagnon, Julie Dubé "The Case of Detainees Tortured in the Name of National Security and the 'War on Terror:' Are They Entitled to Reparations?," *Notre Dame Journal of International & Comparative Law*: Vol. 1: Iss. 1, Article 5, Page 165.

[16] "Witness to Guantanamo," Hongisberg, J. Peter, http://witnesstoguantanamo.com.

[17] Supra at 6.

[18] "Independent International Commission of Inquiry on Syria," United Nations Human Rights, OHCHR, http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx.

[19] *Id.*